

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant/owner: Layne Floyd
PO Box 65, Amherst, MA 01002

Date application filed with the Town Clerk: July 23, 2010

Nature of request: To modify Special Permit, ZBA FY1998-0015 [as amended by ZBA FY2003-00008], to add two (2) additional bedrooms in one (1) of two (2) units on the property and to remove a requirement for owner occupancy and/or on-site manager, under Section 10.33 and 3.321 of the Zoning Bylaw

Address: 204/206 Belchertown Road (Map 15C, Parcel 32, R-N Zoning District)

Legal notice: Published on August 18, 2010 and August 25, 2010 in the Daily Hampshire Gazette and sent to abutters on August 18, 2010

Board members: Hilda Greenbaum, Tom Ehrgood, Mark Parent

Submissions:

- ZBA application, filed with the Town Clerk on July 23, 2010;
- Applicant letter, dated August 26, 2010;
- Site Plan, prepared by the applicant, stamped received on August 26, 2010;
- Existing & proposed floor plans and elevations, prepared by the applicant, dated July 12, 2010;
- Management Plan;
- Residential Lease;
- Applicant letter, dated July 12, 2010, requesting a waiver from application requirement;
- Town GIS map showing property;
- Special Permit ZBA FY2003-00008, with approved plans;
- Special Permit ZBA FY1998-0015;
- Letter in support of the application, from Doug Fuller, dated September 1, 2010;
- Letter from application containing project summary and Section 10.38 findings, dated August 26, 2010.

Site Visit: September 1, 2010

The Board members and Town Staff met the applicant, Layne Floyd, and attorney, Alan Seewald, on site. The Board members observed the following:

- The location of the property on the north/east side of Belchertown Road bordered to the north by an existing two-family dwelling owned by the applicant; to the south/east by an existing two-family dwelling and active farmland; and, to the south/west by a commercial nursery use on the opposite side of Belchertown Road;
- The existing farmhouse located adjacent to Belchertown Road and the existing, two-story garage located at the back of the property;

- The interior of the farmhouse, consisting of 5 bedrooms, which was occupied. The interior of the first floor of the garage used for storage and the existing apartment on the second floor which is currently occupied. The location of a wooden deck positioned in between the two buildings.

Public Hearing: September 2, 2010

Mr. Floyd was accompanied by attorney Alan Seewald. Ms. Greenbaum made a disclosure that she had worked with Mr. Seewald in the past, but that the relationship would not unduly influence her ability to render an impartial decision.

Mr. Seewald stated the following:

- The site is located on Belchertown Road, also known as Route 9, a major east/west artery through the Town and is situated in the Neighborhood Residence Zoning District, where a two-family dwelling is allowed by Special Permit;
- The property is triangular in shape and is surrounding on the northwest by an existing two-family dwelling owned by the applicant; to the northeast by a large farm field with no residential uses; on southeast by an existing two-family dwelling and to the southwest by a commercial garden nursery.
- The property contains a farmhouse at the front and a detached, two-story garage in the rear.
- Previous permits, ZBA FY1998-0015 and ZBA FY2003-00008, authorized the creation of a second unit above the garage. The farmhouse has four/five bedrooms and the garage contains two bedrooms.
- The applicant is requesting to make the garage unit a four (4) bedroom unit by enclosing the space between the farmhouse and garage and creating a bedroom and by converting a portion of the first floor storage space to living space with an additional bedroom.
 - The creation of the living space between the two buildings will actually bring the use into better compliance with the Zoning Bylaw as two-family dwellings are required to be connected.
 - He acknowledged that the prior permits were conditioned to require that the existing deck be covered with a roof in order to constitute a connection between the buildings. When the applicant consulted with the Inspection Services Department about the construction of the roof is when the concept of adding living space was contemplated.
- The applicant proposes to remove the door in the room labeled living room, on the first floor in order to prevent it from being used as a fifth bedroom in the farmhouse. With the reduction of a bedroom in the farmhouse, the proposal creates a net of only one new bedroom to the two-family use.
- The applicant proposes to expand the number of parking spaces from seven (7) to 11 spaces; enclose the trash and recycling storage area behind the farmhouse; and, to remove the on-site manager requirement.

Mr. Floyd stated the following:

- He originally moved to Amherst in 1975 to study at UMass Amherst, and began a rental property management company in 1989, at one point owning 20 properties;
- His business philosophy is to keep the rent price a little lower and keep the property better maintained than others in order to increase the number and quality of potential tenants;

- The proposal is not a significant change from the existing use as a two-family;
- The property is a significant investment and as the owner issues of maintenance and appearance are important.

Mr. Seewald stated the following:

- The structure with the additions would meet all of the dimensional requirements of the Zoning Bylaw and also conforms to the findings required under Section 10.38;
- The two-family dwelling is somewhat isolated, but it is also situated on a main artery through town;
- The University no longer requires sophomores to live on campus, so there are increased numbers of students seeking off-campus housing;
- The proposal fills out the existing residential density on the site and does not require new development elsewhere;
- There have been no significant problems with the units on the property, which reflects Mr. Floyd's ability to be a good and attentive landlord.

Mr. Seewald spoke specifically about the removal of the requirement for an onsite manager. He stated the following:

- Mr. Floyd has a significant presence at the property, especially because a portion of the first floor in the garage will remain storage for the applicant;
- The property is not amendable to having someone who is older and more responsible living there to oversee the younger tenants;
- Mr. Floyd has in the past appointed one of the tenants to be an on-site manager. This arrangement puts peers in the role of supervising peers, which is not a good idea and gives a false sense of security;
- Mr. Floyd is fully capable of managing the property. For example, he has included provisions, such as prohibiting more than 12 people gatherings, kegs, parking on the grass, in the rental lease;
- If there are problems on the property, Mr. Floyd will find out about it and provisions of the lease allow him to take action.

Mr. Parent asked about the entrance to the unit above the garage and whether there were any new plantings proposed on the property. Mr. Floyd stated that the rear entrance on the second floor deck seems to be the primary entrance, mainly because it enters directly into the kitchen. He stated that no new landscaping is proposed.

Mr. Parent expressed concern with the lack of landscaping along the northwest façade (shown as the "left elevation" on the submitted plans) because the addition will create a long exterior wall without any vegetation.

Ms. Greenbaum asked whether there will be adequate lighting for the expanded parking area and whether the fixtures can be motion activated. Mr. Floyd stated that the egress door lighting should be adequate to light the parking area and could be installed as motion detector fixtures.

Mr. Parent MOVED to close the evidentiary portion of the public hearing. Mr. Ehrgood seconded the motion and the Board VOTED unanimously to close the public hearing.

Public Meeting:

The Board determined that the plans submitted and prepared by the applicant were acceptable. Ms. Greenbaum moved to WAIVE the requirement for professional prepared Building and Site plans. Mr. Parent seconded and the Board VOTED unanimously.

The Board determined that the existing vegetation is adequate for screening the parking area. Mr. Parent moved to WAIVE the screening requirements under Section 7.112. Mr. Ehrgood seconded and the Board VOTED unanimously.

Mr. Parent identified the importance of landscaping and proper maintenance thereof on non-owner occupied properties. Mr. Parent made specific reference to concern about the lack of any vegetation along the northwest façade (shown as “left elevation” on the submitted plans). He noted that the required connector between the two structures creates a very long expanse of building that landscaping may help to mitigate.

Specific Findings:

The Board found under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 & 10.381- The proposal is suitably located in the neighborhood in which it is proposed and/or the total Town, as deemed appropriate by the Special Permit Granting Authority and is compatible with existing uses and other permitted uses in the same zoning district. There are other rental properties in the immediate neighborhood. The creation of two (2), four (4) bedroom units is in keeping with the residential nature of the neighborhood and is compatible with the existing multifamily uses in the vicinity.

10.382 - The proposal would not constitute a nuisance due to air and water pollution, flood, noise, odor, dust, vibration, lights, or visually offensive structures or site features. The surrounding properties are either rental units or agricultural land, which would not be adversely affected by the proposed addition of two bedrooms. The parking area to the west of the existing structure, which would remain, is adequately screened from the rental house to the west so that there would be no increase in light or noise affecting that property. The exterior siding of the structure will match that of the existing building.

10.383 & 10.387- The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians and provides convenient and safe pedestrian and vehicle movement. The addition of two (2) additional bedrooms will not be a substantial inconvenience or hazard because the proposal provides adequate parking and turn around areas on site.

10.384 -Adequate and appropriate facilities would be provided for the proper operation of the proposed use. As identified in the Management Plan, appropriate facilities are provided for parking, trash storage and removal, and snow plowing.

10.386 - The proposal ensures that it is in conformance with the Parking and Sign regulations (Articles 7 and 8, respectively) of this Bylaw. The proposal provides eleven parking spaces which is more than double the minimum requirement of two (2) spaces per unit under Section 7.000. No parking is proposed within the front yard setback or on the grass area adjacent to the parking area.

10.389 - The proposal provides adequate methods of disposal and/or storage for sewage, refuse, and recyclables. The property is served by town sewer and water. The trash and recycling will be located and screened from Belchertown Road and will be picked up weekly.

10.392 - The proposal provides adequate landscaping, including the screening of adjacent residential uses. The parking area is adequately screened from the property to the north and the farm-land to the east. The existing privet provides adequate screening from Belchertown Road.

Additional landscaping is required to be installed adjacent to the dwelling to ensure compatibility of the use within the neighborhood and to help replicate an owner occupied residence.

10.393 - The proposal provides protection of adjacent properties by minimizing the intrusion of lighting. Any new exterior lighting will be downcast or shielded to prevent light trespass onto adjacent properties.

10.398 - The proposal is in harmony with the general purpose and intent of this Bylaw and the goals of the Master Plan. The proposal adds two (2) additional bedrooms to an existing two-family dwelling in accordance with the maximum number of bedrooms allowed by the Zoning Bylaw. The proposal provides parking in excess of what is required by the Zoning Bylaw. The proposal is in harmony with the goal of the master plan to “preserve and expand the number of affordable and moderately priced rental and ownership units in the housing stock”. The proposal adds and promotes housing to an existing structure located on a public transportation route to the University.

Public Meeting – Zoning Board Decision

Ms. Greenbaum moved to APPROVE the application with conditions. Mr. Parent seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit, ZBA FY2011-00004, to modify Special Permit ZBA FY1998-0015 as amended by ZBA FY2003-00008, to add two (2) additional bedrooms in one (1) of the two (2) units on the property and to remove a requirement for an on-site manager, under Section 3.321 and 10.33 of the Zoning Bylaw, at 204/206 Belchertown Road (Map 15C, Parcel 32, R-N Zoning District), with conditions.

HILDA GREENBAUM

TOM EHRCOOD

MARK PARENT

FILED THIS _____ day of _____, 2010 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2010.

NOTICE OF DECISION mailed this _____ day of _____, 2010
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2010,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2011-00004, to modify Special Permit ZBA FY1998-0015 as amended by ZBA FY2003-00008, to add two (2) additional bedrooms in one (1) of the two (2) units on the property and to remove a requirement for an on-site manager, under Section 3.321 and 10.33 of the Zoning Bylaw, at 204/206 Belchertown Road (Map 15C, Parcel 32, R-N Zoning District), with the following conditions:

1. This permit shall supersede other previous Special Permits for this property.
2. The addition, garage renovation, and the interior layout of both the farmhouse and the garage shall be built and used in accordance with the floor plans and elevations prepared by the applicant, dated July 12, 2010, and stamped approved by the Zoning Board of Appeals on September 2, 2010.
3. The new siding on the addition shall match that of the existing buildings.
4. The parking area and improvements shall be constructed and maintained in accordance with the site plan, dated July 12, 2010, and stamped approved by the Zoning Board of Appeals on September 2, 2010.
5. There shall be no more than 11 vehicles on the property on a regular basis.
6. The property and use shall be managed in accordance with the Management Plan, received on August 26, 2010 and stamped approved on September 2, 2010.
7. Prior to a Certificate of Occupancy, a revised landscape & lighting plan showing the location and species of additional plantings along the northwest façade (shown as “left façade” on the submitted plans); the location of exterior lighting fixtures; and additional information regarding the trash & recycling storage shall be submitted for review and approval at a public meeting.
8. All landscaping shall be maintained in good condition and in a manner consistent with an owner occupied dwelling.
9. All existing and new sidewalks shall be built and maintained in a manner which is clearly accessible to all tenants.
10. All exterior lighting fixtures shall be downcast, shielded, or situated so as to prevent light spillage onto adjacent properties. The lighting fixtures shall either be set on motion detectors, or placed appropriately to sufficiently light the walkways and parking area.
11. Each dwelling unit shall be registered with the Board of Health in accordance with the Rental Registration requirements.
12. The name and telephone number of the property owner shall be recorded with the Health Department, Inspection Services and Fire Department.
13. This permit shall expire upon change of ownership.

Hilda Greenbaum, Acting Chair
Amherst Zoning Board of Appeals

DATE